

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**AEL FINANCIAL, LLC, an Illinois  
limited liability company,**

**Plaintiff,**

**v.**

**CITY AUTO PARTS OF DURHAM, INC.  
D/B/A CITY AUTO SALVAGE CITY,  
a North Carolina corporation,  
JOSEPH R. GUARGLIA, SR. and  
JOSEPH R. GUARGLIA, JR.,**

**Defendants.**

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**Case No. 08-cv-3490**

**Judge Dow, Jr.  
Magistrate Judge Mason**

**UNCONTESTED MOTION BY DEFENDANTS  
TO EXCUSE LEAD COUNSEL FROM  
APPEARING AT THE INITIAL STATUS HEARING**

NOW COME Defendants City Auto Parts of Durham, Inc., Joseph R. Guariglia, Sr., and Joseph R. Guariglia, Jr., by and through the undersigned counsel, and hereby move the Court to issue an Order permitting Defendants' lead counsel, Carlos E. Mahoney, to be excused from appearing at the initial status hearing set for September 2, 2008 at 9:00 a.m. on the grounds that Mr. Mahoney is scheduled to be out of the country on a family vacation that was arranged in January, 2008. Counsel for Plaintiff does not oppose this Motion and Defendants' local counsel will appear at the initial status hearing.

In support of this Motion, Defendants show as follows:

1. Plaintiff's action is based upon diversity of citizenship jurisdiction. Defendants are citizens of North Carolina and Plaintiff's members are citizens of Illinois.

2. Defendants are represented in this matter by Carlos E. Mahoney, a North Carolina attorney, and by Robert S. Bell, Jr., an Illinois attorney. This Court has granted Mr. Mahoney permission to appear *pro hac vice* in this action. Mr. Mahoney is acting as lead counsel and Mr. Bell is acting as local counsel.

3. The initial status hearing is scheduled to occur on September 2, 2008 at 9:00 a.m.

4. Mr. Mahoney is scheduled to be out of the country on a family vacation from August 29, 2008 through September 6, 2008. Mr. Mahoney's family vacation was arranged in January, 2008.

5. Before going on vacation, Mr. Mahoney intends to finalize the joint status report with opposing counsel and to fully advise Defendants' local counsel about the nature of the case; the factual and legal issues; the possibility of settlement; the nature and length of discovery that will need to be completed; and, potential motions to be filed.

6. Mr. Bell will be present at the initial status hearing on September 2, 2008.

7. Counsel for Plaintiff does not oppose this Motion.

WHEREFORE, Defendants request that the Court issue an Order allowing Defendants' lead counsel, Carlos E. Mahoney, to be excused from appearing at the initial status conference or, in the alternative, permitting Mr. Mahoney to appear by telephone, and allowing such further relief as may be just and proper.

This the 12<sup>th</sup> day of August, 2008.

/s/ Carlos E. Mahoney

Carlos E. Mahoney

Glenn, Mills, Fisher & Mahoney, P.A.

P. O. Drawer 3865

Durham, North Carolina 27702-3865

Telephone: (919) 683-2135

Fax: (919) 688-9339

[cmahoney@gmf-law.com](mailto:cmahoney@gmf-law.com)

N.C. State Bar No. 26509

Counsel for Defendants, appearing *pro hac vice*

Robert S. Bell, Jr.

Law Offices of Cary J. Collins, P.C.

2200 West Higgins Road, Suite 155

Hoffman Estates, IL 60195

Telephone: (847) 519-0010

Fax: (847) 519-0016

[rsbelljr@sbcglobal.net](mailto:rsbelljr@sbcglobal.net)

Local Counsel for Defendants

**CERTIFICATE OF SERVICE**

I, Carlos E. Mahoney, hereby certify that on August 12, 2008, I electronically filed the foregoing document entitled, **Uncontested Motion by Defendants To Excuse Lead Counsel from Appearing at the Initial Status Hearing**, with the Clerk of Court for the Northern District of Illinois using the CM/ECF system which will send notification of the filing to all attorneys in this action.

Respectfully submitted,

/s/ Carlos E. Mahoney

Carlos E. Mahoney  
Glenn, Mills, Fisher & Mahoney, P.A.  
P. O. Drawer 3865  
Durham, North Carolina 27702-3865  
Telephone: (919) 683-2135  
Fax: (919) 688-9339  
[cmahoney@gmf-law.com](mailto:cmahoney@gmf-law.com)  
N.C. State Bar No. 26509  
Counsel for Defendants, appearing *pro hac vice*